

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

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|------------------------------|---|----------------------------|
| Darrin Smith, #Y309505, |) | |
| |) | |
| Plaintiff, |) | C.A. No. 9:08-2471-HMH-BM |
| |) | |
| vs. |) | OPINION & ORDER |
| |) | |
| South Carolina Department of |) | |
| Corrections; and TCI Officer |) | |
| Keianna Dukes, |) | |
| |) | |
| Defendants. |) | |

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina.¹ Darrin Smith (“Smith”), a state prisoner proceeding pro se, filed a civil rights action under 42 U.S.C. § 1983. In his Report, Magistrate Judge Marchant recommends granting South Carolina Department of Corrections’ (“SCDC”) motion to dismiss based on Eleventh Amendment immunity.

Smith filed objections to the Report and Recommendation on October 14, 2008, alleging that he was unable to file his response to SCDC’s motion to dismiss because he has limited access to the law library as a result of lock down of Turbeville Correctional Institution. In an

¹The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (2006).

October 22, 2008 order, the court allowed Smith an additional fifteen days to file objections. Smith has failed to file any additional objections.

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the magistrate judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Smith's objections are non-specific, unrelated to the dispositive portions of the magistrate judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Marchant's Report and Recommendation.

It is therefore

ORDERED that SCDC's motion to dismiss, docket number 14, is granted.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
November 10, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.